IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

CRL.A.No. 646 of 2002()

CC.435/1999 of JUDL.MAGISTRATE OF FIRST CLASS-I, ERNAKULAM

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APPELLANT: COMPLAINANT

M/S.TAARIKA SAREE CENTRE,
COCHIN COMPLEX, MARKET ROAD,
ERNAKULAM, REPRESENTED BY ITS
PARTNER, MOHAMMED SHAFEEQ AHAMMED ANSARI.

BY ADV. SRI.V.V.ASOKAN
SRI.SUNIL SHANKER
SMT.ASHA SUNDARAM

RESPONDENTS: ACCUSED AND NON PARTY

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1. SANTHOSH, PROPRIETOR,
SANTHOSH FABRICS,
VARKALA, TRIVANDRUM DISTRICT,
PIN - 695 141.

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 25/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.A.No.646 of 2002(B)

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Dated this the 25th day of October, 2007

J U D G M E N T

The appellant is the complainant in C.C.No.435/2000 in the file of the Judicial Magistrate of the First Class-I, Ernakulam, with respect to the proceedings initiated under Section 138 of the Negotiable Instruments Act. The accused was acquitted under Section 256(i) of the Code of Criminal Procedure. It is submitted that the lapse was occasioned on account of wrong noting of the posting date.

In the circumstances, the order of acquittal is set aside. The court below is directed to permit the appellant/complainant to further pursue the matter and dispose of the case on merits. The appellant shall appear before the court below on 28/11/2007. The court below shall issue fresh summons to the accused.

The appeal is allowed.

Sd/-
K.R.UDAYABHANU,
Judge

ms

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P.A.to Judge